

ORIGINAL

Channel Law Group, LLP



0000088617

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Phone: (310) 982-7197
Fax: (562) 216-5090
www.channellawgroup.com

RECEIVED

2008 AUG 15 P 1:27

AZ CORP COMMISSION
DOCKET CONTROL

Phone Line: (310) 982-1760
jamie.hall@channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK ***

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

August 13, 2008

VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY

Armando Fimbres
Utility Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Re: NewPath Networks, LLC
Docket No. T-20567A-07-0662

Dear Mr. Fimbres:

Enclosed are NewPath Networks' responses to Staff's Letter of Insufficiency and First Set of Data Requests in the above referenced docket. I have enclosed one original and thirteen (13) copies for filing. I have also enclosed an extra copy of this response to be date stamped and returned to me in the enclosed self-addressed, postage pre-paid envelope. If you have any questions or require additional information, please contact me at 310-982-1760 or jamie.hall@channellawgroup.com.

Sincerely,

Jamie T. Hall

Attorney for NewPath Networks, LLC

cc: Mike Kavanagh, NewPath Networks, LLC
Stephen Garcia, NewPath Networks, LLC
Greg Lake, Lake & Cobb, PLC
Docket Control (Original and 13 copies)

Arizona Corporation Commission
DOCKETED

AUG 15 2008

DOCKETED BY

RECEIVED

AUG 15 2008

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET OF DATA REQUESTS
Docket T-20567A-07-0662

NewPath Networks, LLC ("NewPath") hereby submits the following responses to the Staff's Letter of Insufficiency and First Set of Data Requests submitted by the Arizona Corporation Commission Staff ("Staff").

STF 1.1 Section (A-9) of the Applicant's CC&N application explains the proposed Return Check policy as follows. "No fee will be charged for returned checks, unless otherwise provided under Individual Case Basis, special promotions or special construction arrangements." Staff is not able to find any reference to "special promotions" in NewPath's tariff. Please consider either (1) revising the proposed policy and incorporating it into the tariff or (2) incorporating the proposed policy as stated in (A-9) into the tariff. In either case, please submit revised tariff pages or a revised tariff as appropriate.

NewPath hereby revises its proposed policy to exclude the reference to "special promotions" and incorporates the revised policy into the tariff. Revised Tariff Sheets 24 and 25 are included as Attachment A.

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.2 Staff clarifies the language in section (A-11) of the CC&N application by explaining that "formal or informal complaint proceedings" is intended to cover all complaints filed, whether proven or dismissed. Please confirm the Applicant's understanding of this clarification by affirming the information submitted in section (A-11) of the CC&N application or by revising the information as appropriate.

NewPath confirms staff's clarification of the language in Section (A-11) and NewPath affirms the information previously submitted in section (A-11) as part of NewPath's CC&N application with one exception. Subsequent to the filing of NewPath's CC&N application in Arizona, NewPath was granted an injunction against the City of Irvine permanently enjoining the enforcement of the City's Wireless Ordinance pursuant to Section 253 of the Telecommunications Act of 1996. As a result of this litigation, an Irvine resident wrote the California Public Utilities Commission ("CPUC") and objected to the CPUC's grant of a Notice of Exemption for NewPath's Irvine project. The request had no merit and CPUC staff refused to process or otherwise take any action on the request.

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.3 If NewPath has initiated service in the following states, please provide the dates when service was initiated - Oregon, Nevada, California, Missouri, New Mexico, Minnesota, Louisiana, Washington, Colorado – else, please explain when NewPath plan to initiate service in each state.

NewPath has initiated service in the following states: Oregon, Nevada, California, Minnesota, Louisiana, Washington and California. NewPath is certificated in both Missouri and New Mexico, but does not currently provide services in these states. NewPath expects to begin offering services in these states within 12 months. NewPath has compiled a chart outlining service initiation dates.

State	First Date of Operation	Expected Date of Initiation
Oregon	6/9/08	N/A
Nevada	4/24/08	N/A
California	12/27/07	N/A
Missouri	N/A	August 2009
New Mexico	N/A	August 2009
Minnesota	7/25/08	N/A
Louisiana	10/1/07	N/A
Washington	3/1/07	N/A
Colorado	4/1/07	N/A

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.4 In section (A-19), NewPath explains that it currently leases SRP fiber. Please explain:

1 – does SRP mean Salt River Project?

NewPath confirms that “SRP” means Salt River Project.

2 – when did NewPath begin leasing facilities from SRP?

NewPath began leasing facilities from SRP in March 20, 2006.

3 – does NewPath currently provide services to carriers in Arizona?

Yes.

4 – if yes above, please explain the types of service currently provided,

NewPath currently operates a Distributed Antenna System (“DAS”) in the City of Glendale (“Glendale Stadium Project.”) The system provides wireless coverage in the vicinity of the Westgate Center, University of Phoenix Stadium, and Coyotes Stadium. NewPath provides transport services to wireless carriers, operating as a “carrier’s carrier.” In that capacity, NewPath transports radio frequency signals for communications (both voice and data) between points designated by its customers. NewPath’s service consists of fiber lines that are leased from SRP and small antennas placed inside and outside the aforementioned stadiums. NewPath does not offer services to consumers.

5 - when services were first initiated in Arizona, and

NewPath’s service was first initiated in April 1, 2006.

6 – by what authority did NewPath understand it could begin providing services in Arizona without a CC&N?

The issuance of a CC&N was not required for the Glendale Stadium Project due to the nature of NewPath’s carrier customers and services. NewPath has secured an agreement with the applicable jurisdiction, the City of Glendale and NewPath understood this authority as all that was required to provide its service. NewPath does not provide its services to consumers and it is nowhere stated in either Commission Rules or the Arizona Revised Statutes that a Distributed Antenna System (“DAS”) provider is required to obtain a CC&N prior to providing services in Arizona. Based on the aforementioned, NewPath understood that it did not need a CC&N to provide its services. NewPath is currently seeking a CC&N in conjunction with a jurisdictional request tied to the negotiation of a franchise agreement.

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.5 Please clarify the information submitted in section (A-20) – “No affiliates of applicant provide the service NewPath proposed to offer in Arizona.” Does NewPath have any affiliates operating in or outside of Arizona? If yes, please provide for each affiliate (1) the name of each affiliate, (2) the main office location, and (3) a general description of the services provided.

NewPath has two affiliates, InSITE Solutions, LLC and InSITE Fiber of Virginia, Inc., which is a wholly owned subsidiary of InSITE Solutions, LLC. NewPath's affiliates operate outside Arizona. NewPath provides the following information for each affiliate as requested by staff.

InSITE Solutions, LLC

InSITE Solutions, LLC (“InSITE”) was formed on October 1, 2002 under the laws of the State of Maryland (“State”) and is a subsidiary of NewPath Networks, LLC. InSITE's headquarters is located at 3 Muirwoods Court, Annapolis, MD 21403. InSITE is a Maryland based fiber optic build/own telecommunications utility company which has been formed for the primary purpose of designing, building and operating Radio Frequency (RF) over Fiber Optics systems for its wireless carriers customers. InSITE offers a wide range of professional services business to business specifically geared towards streamlining the development and deployment of telecommunication sites; be it for fiber optics networks, distributed antenna system (DAS) placement, in-building wireless or traditional cellular macro tower construction.

InSITE Fiber of Virginia, Inc

InSITE Fiber of Virginia, Inc. is a subsidiary of InSITE and was incorporated in the state of Virginia on October 17, 2003. InSITE Fiber of Virginia provides similar infrastructure and services as InSITE and only operates in the state of Virginia.

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.6 If NewPath has any affiliates, please provide an organization chart illustrating all affiliates within the parent companies structure.

NewPath provides the following organization chart which is included as Attachment B.

NEWPATH NETWORKS, LLC
RESPONSE TO ARIZONA CORPORATION COMMISSION
STAFF'S LETTER OF INSUFFICIENCY AND FIRST SET FO DATA REQUESTS
Docket T-20567A-07-0662

STF 1.7 If NewPath has any affiliates, does NewPath understand it must comply with R14-2 805, Annual Filing Requirements of Diversification Activities and Plans?

NewPath understands that it must comply with R14-2-805, Annual Filing Requirements of Diversification Activities and Plans.

Attachment A

RADIO FREQUENCY TRANSPORT AND BACKHAUL SERVICES

3 RULES (cont'd.)

No. 8 RENDERING AND PAYMENT OF BILLS

The Customer is responsible for payment of all charges for services and equipment furnished by the Company to the Customer. All charges due by the Customer are payable to the Company or to the Company's authorized billing agent upon presentation of the bill. Any objections to billed charges must be reported to the Company or its billing agent within 3 years after receipt of bill. Adjustments to the Customer's bill shall be made to the extent circumstances exist that reasonably indicate that such changes are appropriate.

8.1 Collection Fees & Expenses

In the event that the Company incurs fees or expenses, including attorney's fees, collecting, or attempting to collect, any charges owned to the Company, the Company may charge the Customer all such fees and expenses reasonably incurred, including a collection fee on the unpaid charges accruing at a rate of one-and-one half percent (1.5%) per month. Collection fees on unpaid charges shall begin to accrue when the account is assigned to an outside collection agency. Such collection fees are separate and distinct from attorney's fees and other costs incurred in collecting charges owed to the Company. In any legal dispute between the Customer and the Company, the nonprevailing party may be liable for court costs and attorney fees as determined by the court or the Commission.

8.2 Bill Payment

8.2.1 The billing date will be printed on the bill and the date rendered shall be the mailing date.

8.2.2 Bills will be considered delinquent fifteen (15) days after the date the bill is rendered.

8.2.3 Delinquent accounts for which payment has not been received may be terminated twenty-two (22) days after the date the bill is rendered.

8.2.4. A late payment charge may be applied if payment is not received by the Company on or before the late payment date that shall be prominently displayed on the Customer's bill. The late payment date will be at least fifteen (15) days after the date rendered.

8.2.3 All payment shall be made at or mailed to the office of Company or to Company's duly authorized representative.

RADIO FREQUENCY TRANSPORT AND BACKHAUL SERVICES

3 RULES (cont'd.)

8.2.4. No fee will be charged for returned checks, unless otherwise provided under Individual Case Basis or special construction arrangements.

No. 9 DISPUTED BILLS

In the case of a dispute between a Customer and the Company as to the correct amount of a bill rendered by the Company for service furnished to the Customer, which cannot be resolved with mutual satisfaction, the Customer may make the arrangements set forth below.

9.1 Company Investigation

The Customer may make a written request, and the Company shall comply with the request, for an investigation and review of the disputed amount.

9.2 Undisputed Portion of Bill

The undisputed portion of the bill, and subsequent bills must be paid by the "Due By" date (no sooner than 15 days of the date of presentation) shown on the bill. If the undisputed portion of the bill and subsequent bills become delinquent as described herein, the service may be subject to disconnection so long as the Company has notified the Customer by written notice of such delinquency and impending termination.

Attachment B

NewPath Networks, LLC

NewPath Networks, LLC

A New Jersey limited liability company

InSITE Solutions, LLC

A Maryland limited liability company

A subsidiary of NewPath Networks, LLC

InSITE Solutions of Virginia, Inc.

A Virginia corporation

A subsidiary of InSITE Solutions, LLC